

NATIONAL PARTY SUBMISSION

THEME COMMITTEE 1

BLOCK 4: ACCOUNTABLE GOVERNMENT

In terms of Constitutional Principle VI, there shall be a separation of powers between the legislature, the executive and the judiciary, with appropriate checks and balances to ensure accountability, responsiveness and openness. (*Italics added.*) This commitment refers to a crucial aspect of any democratic constitutional system. In the final analysis, any democratic system is based on two indispensable premises, namely representative government (those in government must be representative of the people, which can be determined only through free and fair elections) and responsible government (the elected government must be responsible to the representatives of the people and to the people themselves and may govern only with their continuous support). The reference to accountability in Constitutional Principle VI can be said to represent this latter essential component of a democratic system.

For this reason, we, firstly, concur with the inclusion of an express commitment in the constitution (for example, in the Preamble), to the principle of responsible (or, in the words of Constitutional Principle VI, accountable) government as suggested by the Technical Committee. For the reasons advanced below, this, however, is not essential and in itself will have no concrete effect.

The principle of responsible or accountable government can be given effect only through specific arrangements and, therefore, we, secondly, support the approach of the Technical Committee to refer to all the various mechanisms and instruments without which a mere commitment to responsible government will have no substance. We also agree with the categories of mechanisms mentioned by the Committee, namely (i) judicial review (mainly on the basis of the bill of rights), (ii) the separation of powers and concomitant checks and balances, including an express provision on executive responsibility to the legislature (sections 92 and 153), (iii) access to information and transparency, and (iv) various offices and commissions.

However, without going into detail, and only to complete the picture, we wish to add the following aspects to the list of mechanisms that need to be employed to comply with the principle of responsible government.

- (a) free, fair and regular elections, which is probably the most important mechanism to ensure responsibility, because it enables the voters to express themselves on the government's performance, either to demonstrate rejection or continuous support;
- (b) the full range of parliamentary control mechanisms, such as motions of no-confidence, approval of the budget questions, interpellations and hearings, and reports by the auditor-general. Parliament remains the primary arena enforcing government responsibility and these mechanisms must be provided and protected in full;
- (c) distribution of powers among different levels of government, because it brings government closer to the people and facilitates accountability.

As pointed out by the Technical Committee, the detail on these as well as the other aspects mentioned by the Committee, will be provided by the appropriate Theme Committees.